

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

KENNETH PAUL DYKAS,)
Petitioner,)
v.) No. 3:04-0769
JACK MORGAN, Warden,) Judge Echols
Respondent.)

ORDER

For the reasons stated in the Memorandum entered contemporaneously herewith, the Court rules as follows:

- (1) Petitioner's Objections (Docket Entry No. 31) to the Magistrate Judge's Report and Recommendation (Docket Entry No. 30) are hereby OVERRULED;
- (2) The Magistrate Judge's Report and Recommendation (Docket Entry No. 30) is hereby ACCEPTED; and
- (3) This case is hereby DISMISSED WITH PREJUDICE.

Further, because Petitioner cannot demonstrate that reasonable jurists would find the Court's assessment of the constitutional claims debatable or wrong, or that jurists of reason would find it debatable whether the Court was correct in its rulings on the issue of procedural default, a Certificate of Appealability will not issue. See Slack v. McDaniel, 529 U.S. 473, 483-84 (2000).

IT IS SO ORDERED.


ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE